



AF/1725 JFW

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : George M. Alleman, Jr. et al
For : ALL-TERRAIN UNDERCARRIAGE
Serial No. : 09/411,106
Filed : October 4, 1999
Group Art Unit : 1725
Examiner : Colleen P. Cooke
Our Docket No. : LEEE 2 12396

THIRD REPLY BRIEF

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I hereby certify that this correspondence is being deposited
with the United States Postal Service as first class mail in
an envelope addressed to Commissioner for Patents,
P.O. Box 1450, Alexandria, VA 22313-1450
on 06-03-04

U.R. Cox

(SIGNATURE)

06-03-04

Dear Sir:

This is a Reply Brief to the second Supplement to the Examiner's Answer mailed on May 20, 2004. The second supplement was filed by the Examiner in response to Appellants' Second Reply Brief filed on February 10, 2004. This Third Reply Brief incorporates by reference the arguments previously set forth in the Appeal Brief filed on December 31, 2001, the Supplement to Appeal Brief filed on March 11, 2002, the Revised Appeal Brief filed on April 25, 2002, the Reply Brief filed on June 18, 2002, and the Second Reply Brief filed on February 10, 2004.

Appellants, in this Third Reply Brief, will briefly address the Examiner's comments with respect to the basis of the rejection of claims 72, 73 and 82 under 35 U.S.C. 112(1), the status of claims 76-81 and the grouping of the claims on appeal.

A. The Rejection of Claims 72, 73 and 82.

Appellants appreciate the Examiner's explanation concerning the current basis for the rejection of claims 72, 73 and 82 under 35 U.S.C. 112(1). The Examiner has clarified that claims 72, 73 and 82 stand rejected under 35 U.S.C. 112(1) on the basis that the use of the term "axes" in the claims is not supported by the originally filed patent application. Appellants disagree with the Examiner's conclusions concerning this rejection. Appellants' arguments in opposition to the Examiner's rejection have been fully set forth in the previously filed papers in this appeal.

B. The Status of Claims 76-81.

Appellants also appreciate the Examiner's explanation concerning the reference to canceled claims 76-81. Appellants agree with the Examiner that claims 76-81 are not currently pending and are not the subject of this appeal.

C. The Grouping of the Claims

The Examiner indicated that Appellants original Appeal Brief did not provide reasons to support the statement that the claims do not stand or fall together. Appellants submit that the originally filed appeal brief not only included the statement that the claims on appeal do not stand or fall together, but the arguments set forth in the originally filed appeal brief identified the basis for the claims not standing or falling together.

Appellants appreciate the Examiner's recognition that rejected claim 24 was not set forth in the grouping of the claims submitted in the Second Reply Brief. Appellants also note that claim 71 was not set forth in the last grouping of the claims. Claims 24 and 71 were indicated as belonging to Group 1 in the Reply Brief filed on June 18, 2002. Appellants apologize for this oversight. Accordingly, Appellants set forth the following corrected grouping of the claims in this Appeal:

Group 1 - Claims 1, 5, 9, 22, 24 and 71.

Group 2 - Claim 2 (Indicated as allowable if rewritten in independent form).

Group 3 - Claim 3.

Group 4 - Claims 4 and 6 (Indicated as allowable if claim 2 was rewritten in independent form).

Group 5 - Claim 7 (Indicated as allowable if rewritten in independent form).

Group 6 - Claims 8 and 10 (Indicated as allowable if rewritten in independent form or if claims 2, 4 or 6 were rewritten in independent form).

Group 7 - Claim 11 (Indicated as allowable if rewritten in independent form).

Group 8 - Claim 12 (Indicated as allowable if rewritten in independent form or if claims 2, 4, 6, 8 or 10 were rewritten in independent form).

Group 9 - Claim 13.

Group 10 - Claim 14 (Indicated as allowable if rewritten in independent form or if claims 2, 4, 6, 8, 10 or 12 were rewritten in independent form).

Group 11 - Claim 15 (Indicated as allowable if rewritten in independent form or if claims 2, 4, 6, 8, 10, 12 or 14 were rewritten in independent form).

Group 12 - Claim 16.

Group 13 - Claim 17 (Indicated as allowable if rewritten in independent form or if claims 2 or 4 were rewritten in independent form).

Group 14 - Claim 18 (Indicated as allowable if rewritten in independent form or if claims 2, 4, 6, 8, 10, 12, 14 or 15 were rewritten in independent form).

Group 15 - Claim 19.

Group 16 - Claim 20 (Indicated as allowable if rewritten in independent form or if claims 2, 4, 6, 8, 10, 12, 14, 15 or 18 were rewritten in independent form).

Group 17 - Claim 21 (Indicated as allowable if rewritten in independent form or if claims 2, 4, 6, 8, 10, 12, 14, 15, 18 or 20 were rewritten in independent form).

Group 18 - Claim 23 (Indicated as allowable if rewritten in independent form or if claims 2, 4, 6, 8, 10, 12, 14, 15, 18, 20 or 21 were rewritten in independent form).

Group 19 - Claim 25 (Indicated as allowable if rewritten in independent form or if claims 2, 4, 6, 8, 10, 12, 14, 15, 18, 20, 21 or 23 were rewritten in independent form).

Group 20 - Claim 26.

Group 21 - Claim 27 (Indicated as allowable if rewritten in independent form or if claims 2, 4 or 6 were rewritten in independent form).

Group 22 - Claim 28 (Indicated as allowable if rewritten in independent form or if claims 2, 4, 6, 8, 10, 12, 14, 15, 18, 20, 21, 23 or 25 were rewritten in independent form).

Group 23 - Claim 29.

Group 24 - Claim 30 (Indicated as allowable if rewritten in independent form or if claims 2 or 4 were rewritten in independent form).

Group 25 - Claim 31 (Indicated as allowable if rewritten in independent form or if claims 2, 4, 6, 8, 10, 12, 14, 15, 18, 20, 21, 23, 25 or 28 were rewritten in independent form).

Group 26 - Claims 48, 49, 50, 52, 53, 54, 55, 57 and 73.

Group 26 - Claim 56 (Indicated as allowable if rewritten in independent form).

Group 27 - Claim 58.

Group 28 - Claim 59.

Group 29 - Claim 60.

Group 30 - Claim 61.

Group 31 - Claim 72 (Indicated as allowable if rewritten in independent form or if claim 2 was rewritten in independent form).

Group 32 - Claims 74 and 82.

Group 33 - Claim 75 (Indicated as allowable if rewritten in independent form).

Appellants submit that the above grouping of the claims is supported by the briefs of record. Finally, the Examiner noted that Appellants did not identify the claims that were indicated as being allowable by the Examiner. Based on a review of all the papers filed in this appeal, Appellants submit that the above-identified grouping of the claims references the claims that were indicated as being allowable by the Examiner.

Appellants assert that the prior art references of Karpoff, Sueshige, Magda, and/or Momberg do not disclose, teach or suggest the undercarriage defined in the pending claims.

Appellants respectfully request that the rejections to the pending claims be withdrawn and the claims be indicated as allowable.

Respectfully submitted,
FAY, SHARPE, FAGAN, MINNICH & McKEE

By: 

ROBERT V. VICKERS

Reg. No. 19,504

1100 Superior Avenue, Seventh Floor

Cleveland, Ohio 44114-2579

Telephone: (216) 861-5582

Facsimile: (216) 241-1666